

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 3275 OF 2003

1. Lanyard Foods Ltd. & ors.

.. Petitioners

v/s.

1. The State of Maharashtra & ors. .. Respondents

Mr.B.C.Joshi with Mr.M.M.Vaidya for petitioners.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 6th September, 2004

P.C.

Heard.

2. On 16th June, 2004, the learned counsel for the petitioners informed us that the petitioners desired to take benefit of the Amnesty Scheme-2004 formulated by the State Government vide Government Resolution No.STA-11.04/C/No.56/taxation-1 dated 1st June, 2004 and accordingly, we adjourned the matter to the first week of September, 2004. Today, the learned counsel for the petitioners submits that it would not be possible for the petitioners to comply with the provisions of Amnesty Scheme-2004 and therefore, the petitioners are not desirous of taking benefit of Amnesty Scheme-2004. He, however, invited our attention to the affidavit dated 2nd September, 2004 filed by the Chairman of the petitioner-company claiming therein that balance amount of the sales tax may be

permitted to be paid in equal instalments of

Rs.5,00,000/- per month.

3. It appears that the demand for sales tax in the sum of Rs.3,27,27,910/- was outstanding against the petitioners and for want of payment thereof their properties have been attached vide attachment order dated 12th September, 2002. The proclamation of auction of the said properties has been issued on 19th March, 2003. These orders are under challenge in the writ petition.

4. Under the order of this court, the petitioners have partially discharged their liability of the sales tax dues to the extent of Rs.2,35,87,306/-. Now a sum of Rs. 92,03,736/- towards sales tax dues is said to be payable by the petitioners. As per the previous order of this court, the petitioners have been granted indulgence to pay the amount of sales tax dues in monthly instalments of Rs.10 lakhs. The indulgence having already been granted, we are not persuaded to grant monthly instalment of Rs.5 lakhs as requested by the petitioners. In our considered view, the interest of justice shall be subserved if the petitioners are given opportunity to discharge their remaining liability of sales tax dues by monthly instalments of Rs.10 lakhs as already ordered until the entire sales tax liability is discharged.

5. In the circumstances, we find no justification in keeping the writ petition pending and we dispose of the writ petition by following order:-

i) We record and accept the statement made by the Chairman of the petitioner-company that out of the total sales tax liability in the sum of Rs.3,27,27,910/-, the petitioners have discharged the liability to the extent of Rs.2,35,87,306/-.

ii) The petitioners shall discharge the remaining liability of sales tax dues in nine monthly instalments now. The first eight monthly instalments shall be of Rs.ten lakhs each. By way of 9th monthly instalment, the entire sales tax liability shall be discharged.

iii) Upon compliance, the impugned order of attachment dated 12th September, 2002 and the order of proclamation of auction dated 19th March, 2003 shall stand set aside.

iv) In default, the respondents shall be

free to proceed in accordance with
law in auctioning the petitioners'
property already attached and recover
the due sales tax amount.

No costs.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)